

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL J. QUILLING,

Plaintiff,

vs.

TRADE PARTNERS, INC., ET AL.

Defendants.

Case No. 1:03-cv-0236

Hon. Robert Holmes Bell

Magistrate Judge Ellen S. Carmody

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STIPULATED REPORT AND RECOMMENDATION REGARDING
ASSIGNMENT OF BENEFICIAL OWNERSHIP INTEREST OF
MICHAEL WISSER IN LIFE INSURANCE BENEFITS
UNDER THE BP CONSOLIDATED WELFARE BENEFIT PLAN

This matter comes before the Court upon the Motion of the Receiver, Bruce S. Kramer (“Motion”), to require Metropolitan Life Insurance Company (“MetLife”) and BP Benefits Centers of BP Corporation North America, Inc. (“BP”), to change their records to reflect the assignment by Michael Wisser of his beneficial ownership interest of his life insurance benefits under the BP

Consolidated Welfare Benefit Plan (“Plan”) to Bruce S. Kramer, Receiver for Trade Partners. The Motion (Dkt. 1826) was referred to the undersigned for Report and Recommendation.

The Life Insurance under the Plan is funded by group policies (No. 12000-G) issued by Metropolitan Life Insurance Company to the BP Welfare Plan Trust - III. With respect to the life insurance under the Plan, BP is record keeper and upon the death of a participant, MetLife is advised by BP of the amount of the coverage, the designated beneficiary and other information enabling MetLife to determine the proper payee of the life insurance benefit.

On March 1, 1999, Michael Wisser assigned \$195,000 of his beneficial ownership interest in his life insurance to Kelco, Inc., which subsequently assigned such interest to Bruce S. Kramer, Receiver for Trade Partners, Inc. (The further Assignment to Trade Partners, Inc., was submitted on an improper form, applicable to an individual policy rather than a group policy.) The Parties are aware that subsequent to the assignment by Wisser to Kelco, Wisser, without notice to Kelco or Trade Partners, elected and obtained a benefit under the Amoco Pension Plan, which resulted in Wisser’s life insurance coverage being reduced to \$78,000. The Parties further recognize that the amount of the life insurance benefit payable upon the death of Michael Wisser will be determined by the terms and provisions of the Plan and/or applicable employee benefit plans maintained by BP. For example, the amount of life insurance coverage for Michael Wisser will be reduced pursuant to the terms of the Plan based upon his age when he reaches the age of 65 years.

The undersigned conducted a hearing on the Receiver’s Motion and submits this report and Recommendation, with the consent and upon the stipulation of the parties.

IT IS HEREBY RECOMMENDED that it was the intent of the insured, Michael Wisser, to assign and convey the beneficial ownership interest in the life insurance benefits under the group policy (No. 12000-G) in the amount of \$195,000, but currently in the amount of \$78,000, to Kelco.

Although the assignment from Kelco, Inc., to Trade Partners, Inc., was submitted on an improper form, nevertheless, the assignment is valid and the beneficial ownership interest of Michael Wisser in the life insurance benefits currently \$78,000, not to exceed \$195,000, payable under the Plan upon his death is assigned to Bruce S. Kramer, in his capacity of Receiver for Trade Partners, Inc., or his successor or designee.

IT IS FURTHER RECOMMENDED that BP shall make certain that its records reflect that the beneficial ownership interest of Michael Wisser in the Plan has been assigned to Bruce S. Kramer, Receiver for Trade Partners, Inc., and BP shall provide the Receiver, Bruce Kramer, with confirmation that its records reflect such assignment.

IT IS FURTHER RECOMMENDED that BP shall notify Bruce Kramer, Receiver, or his successor of any voluntary attempt, request or election by Michael Wisser that would reduce the amount of his life insurance coverage below \$78,000.

IT IS FURTHER RECOMMENDED that if the life insurance for Michael Wisser is terminated and a conversion policy or conversion option is available under the terms of the Plan, that BP provide timely notice to the Receiver or his successor to convert the life insurance coverage in the amount that was subject to termination, not to exceed the amount of \$195,000.

IT IS FURTHER RECOMMENDED that Bruce S. Kramer, Receiver, shall be responsible for providing the Plan with any updated contact information and shall fully cooperate with any administrative requirements necessary to preserve his beneficial ownership, including completion of any requested documentation as required by BP or MetLife. Notice to BP should be sent to BP America, Attn: BP Legal, LEEB Benefits Team, 501 Westlake Park Blvd., Houston, Texas 77079.

IT IS FURTHER RECOMMENDED that upon the death of Michael Wisser the life insurance benefit payable under the terms of the Plan at the time of his death, currently \$78,000, not

to exceed \$195,000, shall be payable to Bruce S. Kramer, Receiver for Trade Partners, Inc., or his successor or designee, and BP shall so advise MetLife upon Michael Wisser's death.

IT IS FURTHER RECOMMENDED that at the time of Michael Wisser's death, MetLife can rely upon the information provided by BP as being true and accurate, and will accept the assignment to Bruce S. Kramer, Receiver for Trade Partners, Inc, or his successor, and by MetLife paying the life insurance benefits under the Plan according to such information is completely discharged and released from any further liability.

IT IS FURTHER RECOMMENDED that, recognizing that BP has reserved the right to amend or terminate the Plan, in the event its group policy or policies issued to BP Welfare Plan Trust - III are canceled, amended, revised, or renegotiated such that the amount of coverage for Michael Wisser is reduced or terminated, MetLife shall have no liability beyond the payment of life insurance benefits due under the terms of the applicable group policy in effect at the time of Wisser's death.

IT IS FURTHER RECOMMENDED that upon payment of the life insurance benefits to Bruce S. Kramer, Receiver for Trade Partners, Inc., or his successor, BP and MetLife will be released from any additional liability or responsibility under the Plan, whether arising under the Employee Retirement Income Security Act of 1974 (ERISA), as amended, and/or any other federal or state law, including without limitation attorneys' fees and disbursements.

IT IS FURTHER RECOMMENDED that upon certification by the Receiver that he has received confirmation that BP has changed its records to reflect that the beneficial ownership interest of Michael Wisser in the Plan (which is currently in the amount of \$78,000) has been assigned to Bruce S. Kramer, Receiver for Trade Partners, Inc., the Amended Motion Against BP Benefit Center

(Dkt. 1826) and the resulting Order to Show Cause be, and hereby is DISMISSED WITH PREJUDICE and without an award of sanctions, costs, interest or attorney fees.

Date: August 16, 2010

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge

Agreed to by:

s/Bruce S. Kramer

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